

ST 01-0045-GIL 02/23/2001 EXEMPT ORGANIZATIONS

Gross receipts from proceeds from the sale of personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children are exempt from Retailers' Occupation Tax. However, this exemption does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. See 86 Ill. Adm. Code 130.2009. (This is a GIL.)

February 23, 2001

Dear Xxxxx:

This letter is in response to your letter dated January 17, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's Web site at [www.revenue.state.il.us/legalinformation/regs/part1200](http://www.revenue.state.il.us/legalinformation/regs/part1200).

In your letter, you have stated and made inquiry as follows:

We are an all-volunteer non-profit organization formed to raise funds for the boys and girls athletic departments as well as scholarships for the students of SCHOOL. The membership consists of parents, teachers, and others who wish to help the school.

Our funds are raised through the sale of souvenirs imprinted with the school name/mascots and concessions (soda pop, snacks, hot dogs etc.), in addition to an annual dinner dance and a member golf outing.

Enclosed is a copy of Informational Bulletin FY2000-4 (October 1999).

We have been advised to request a ruling from your Department as to the applicability of the 'New exemption for items (including food) purchased through fundraising events for public schools' on page 2 of that bulletin.

In the past, we have not separately stated nor collected sales tax on our sales but have reported and paid this tax out of our gross sales on form ST-1.

Based on this bulletin are we required to register, collect, or file ST-1?

Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). See the enclosed copy of 86 Ill. Adm. Code 130.2007. This number evidences that the Department recognizes the organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. If an organization does not have an E number, then its purchases are subject to tax. Please be aware that only sales to organizations holding the E number are exempt, not sales to individual members of the organization.

Organizations that have E numbers are also allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in the enclosed copy of 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4). An exempt organization may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities (two fundraisers a year) without incurring Retailers' Occupation Tax liability. In regard to sales to members, please note that the population to which sales are made is limited to persons specifically associated with that exempt organization and must be for the primary purpose of the selling organization. Organizations could use their E numbers to purchase items for such limited exempt sales. However, if organizations engage in ongoing selling activities (such as Little League concession stands or sales of items in a thrift shop run by a church), they must also register with the Department as retailers, file returns and remit tax. For these types of ongoing sales, the organizations would provide their suppliers with Certificates of Resale for the items they purchase to resell and remit Retailers' Occupation Tax on their gross receipts from sales. See 86 Ill. Adm. Code 130.1405, enclosed, which describes the requirements for validly executed Certificates of Resale.

Information Bulletin FY 2000-4 discusses the provisions of Section 2-5(33) of the Retailers' Occupation Tax Act, which provides an exemption for gross receipts from proceeds from the sale of personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. However, this exemption does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. 35 ILCS 120/2-5(33) (1998 State Bar Edition); see also 86 Ill. Adm. Code 130.2009.

In order for the exemption to apply, the following requirements must be met. First, the fundraising event must be for the benefit of the school. Second, the fundraising event must be sponsored by an entity recognized by the school district. Finally, the entity sponsoring the fundraising event must be comprised primarily of volunteers, including parents and teachers of the school children. See Section 130.2009(a)(2)(A-C).

For example, the exemption does not apply to a fundraising group that purchases complete, ready-to-sell items, such as greeting cards, wrapping paper, holiday ornaments, candy bars, and frozen pizzas, for resale from a supplier who profits from the sale to the fundraising group. However, the exemption applies when a parent-teacher association purchases items that it will use in making a meal for a spaghetti dinner fundraiser (e.g., spaghetti sauce, meatballs, bread, and soft drinks) from a supermarket. See Section 130.2009(b). In this case, the items purchased by the parent-teacher association are not complete and ready-to-sell items. Rather, the parent-teacher association must prepare the items for the fundraising event. The parent-teacher association may use its E number to purchase the food items tax-free at the supermarket (however, if the fundraising group does not have

an E number, it would be required to pay tax to the supermarket). The proceeds from the spaghetti dinner would be exempt from Retailers' Occupation Tax.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Gina Roccaforte  
Associate Counsel

GR:msk  
Enc.